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FIRST GENERAL COUNSEL'S REPORT

MUR: 6506

DATE COMPLAINTS FILED: Oct. 28, 2011; Nov. 2, 2011

DATES OF NOTIFICATION: Nov. 3, 2011; Jan. 10, 2012¹

LAST RESPONSE RECEIVED: Feb. 8, 2012

DATE ACTIVATED: March 7, 2012

EXPIRATION OF SOL: July 18, 2013 (earliest) –
Jan. 3, 2016 (latest)

COMPLAINANT:

National Legal and Policy Center

RESPONDENTS:

U.S. Representative Gregory W. Meeks
Friends for Gregory Meeks and Patsy A.

Simmons in her official capacity as treasurer
Build America PAC and Patsy A. Simmons in her
official capacity as treasurer
Stanford Financial Group
R. Allen Stanford

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 434(b)(1)
2 U.S.C. § 439a(b)
2 U.S.C. § 441b(a)
11 C.F.R. § 104.3(a)(1)
11 C.F.R. § 113.1(g)
11 C.F.R. § 114.2(f)(2)(i)(E)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

In a Complaint and Amended Complaint, the National Legal and Policy Center alleges that Representative Gregory Meeks; his principal campaign committee, Friends for Gregory

¹ The Complaint and the Amended Complaint were sent to Meeks, his authorized committee, and Build America PAC on November 3, 2011. Notification letters to Stanford, individually, and as Chairman of the Stanford Financial Group, were mailed on January 10, 2012.

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1 Meeks and Patsy Simmons in her official capacity as treasurer (the "Committee"); and his
2 leadership PAC, Build America PAC and Patsy Simmons in her official capacity as treasurer (the
3 "leadership PAC") violated the Federal Election Campaign Act of 1971, as amended (the "Act").
4 First, the Complaint alleges that the Committee accepted prohibited in-kind corporate
5 contributions when the Stanford Financial Group hosted a fundraiser in St. Croix, U.S. Virgin
6 Islands for Meeks. Second, the Complaint alleges that a fundraiser held in 2010 in Las Vegas by
7 the leadership PAC was a personal use of campaign funds to finance a vacation for Meeks.
8 Third, the Complaint and Amended Complaint allege that the leadership PAC violated the Act's
9 reporting requirements by designating two checks as void even though the checks had been
10 cashed.²

11 Meeks, the Committee, and the leadership PAC filed a joint response (the "Response")
12 denying the first and second allegations.³ As to the third allegation, the Response acknowledges
13 that the leadership PAC incorrectly reported two cashed checks as void but contends that this
14 was an inadvertent mistake, which the leadership PAC will address by filing amendments.

15 Based on our review of the record, it appears that the Respondents involved with the
16 2008 St. Croix fundraiser — Meeks, the Committee, R. Allen Stanford, and the Stanford
17 Financial Group — failed to pay the event's catering costs in advance and thus violated 2 U.S.C.
18 § 441b(a). The record supporting the alleged failure to pay fair market value for the food and
19 beverage, however, is too sparse to justify a reason to believe finding; therefore, we recommend
20 that the Commission exercise its prosecutorial discretion and dismiss this allegation with caution.

² According to the Complaint, these potential violations may constitute recidivist conduct on the part of Meeks and the Committee, citing to Conciliation Agreement, MUR 5895 (Meeks for Congress) (Feb. 4, 2008), which is attached to the Complaint.

³ On May 24, 2012, we confirmed with counsel for Meeks, the Committee, the PAC, and their treasurer, that the Response filed December 22, 2011, was filed on behalf of all his clients. On February 8, 2012, R. Allen Stanford notified the Office of Complaints Examination & Legal Administration via telephone that he and his company, Stanford Financial Group, would not be submitting any response to the Complaint.

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1 For the 2010 Las Vegas fundraiser, we recommend that the Commission find no reason to
2 believe that Meeks and his leadership PAC violated the personal use provision, 2 U.S.C.
3 § 439a(b). With respect to the improperly recorded checks, however, we recommend that the
4 Commission dismiss with caution the allegation that the leadership PAC violated 2 U.S.C.
5 § 434(b)(1) by erroneously reporting the cashed checks as void. Finally, we recommend that the
6 Commission close the file as to all Respondents.

7 II. FACTUAL AND LEGAL ANALYSIS

8 A. The Allegation that the St. Croix Fundraiser Resulted in a Prohibited 9 In-kind Contribution Should Be Dismissed with Caution

10 The Complaint alleges that the Stanford Financial Group made a prohibited corporate
11 contribution to the Committee by hosting a July 18, 2008, fundraiser in Christiansted, St. Croix;
12 assertedly the Committee reimbursed the corporation less than the actual cost of the event.
13 Compl. at 3, 6, Attach. The Complaint's assertion rests on two allegations: (1) only one
14 disbursement from the Committee's reports is readily identifiable as related to the event —
15 \$3,591 for food and beverage disbursed to Stanford Financial Group, *see* Compl. at 3; and (2) a
16 news article report based on an unidentified source that the catering cost for the fundraiser was
17 \$25,000.⁴ *See* Compl. at 7.

18 The Response offers two points in rebuttal. First, the Committee states that its 2008 Pre-
19 Primary Report disclosed disbursements associated with the St. Croix fundraiser that included
20

⁴ The Complaint cited two news articles. One article reports that at the fundraiser, "[e]ighty guests dined on lobster, caviar and foie gras and sipped Cristal and Mondavi Opus 1, a Napa Valley red that retails for \$200 a bottle. An organizer of the party said the cost of the catering alone topped \$25,000." *See* Compl. at 7 and n. 16, (citing Isabel Vincent and Melissa Klein, *Meeks on Crony Express, Sought Favors for Pal from 'Ponzi' Tycoon, Records Show*, NEW YORK POST, Sept. 17, 2011). The other article reportedly describes past parties Stanford allegedly held for Meeks, his wife, and other elected officials: "A total of \$311,307 was spent on trips to places like Montego Bay, St. Croix, and Key Biscayne. 'We were rolling out food, caviar, wine, lobster,' recalled Stanford's personal chef, Jonas Hagg." Compl. at 7 and n. 17, (citing Michael Sallah and Rob Barry, *Feds Probe Banker Allen Stanford's Ties to Congress*, MIAMI HERALD, Dec. 27, 2009).

1 the reimbursed costs for food and beverage, *and* also payments to American Airlines and the
2 Buccaneer Hotel for travel and lodging, related to the fundraiser. Resp. at 3, and n.10.⁵ Second,
3 the Committee argues that the \$3,591.05 reimbursement to Stanford Financial Group for food
4 and beverage was the fair market value of the event — if all 32 donors during the relevant
5 reporting period were present, the per person cost of the event was \$112, or if only the ten
6 reported contributors associated with the Stanford Financial Group attended, the resulting cost
7 would be \$360 per person. Resp. at 3-4.⁶

8 The Act prohibits corporations from making contributions with general treasury funds in
9 connection with any election to federal office, and prohibits any candidate, political committee,
10 or other person from knowingly accepting or receiving any such contribution. 2 U.S.C.
11 § 441b(a). Likewise, the Act also prohibits any officer or director from consenting to any
12 prohibited corporate contribution. *Id.* Further, corporations are prohibited from facilitating the
13 making of contributions to candidates or political committees. 11 C.F.R. § 114.2(f)(1).
14 Commission regulations specify that corporate facilitation includes, among other things,
15 “Fundraising activities by corporations . . . that involve . . . Providing catering or other food
16 services operated or obtained by the corporation . . . , unless the corporation . . . *receives advance*
17 *payment for the fair market value of the services.*” 11 C.F.R. § 114.2(f)(2)(i)(E) (emphasis
18 added).

19 The Complaint does not provide an adequate foundation to support a finding that there is
20 reason to believe that the Committee reimbursed the Stanford Financial Group less than the fair

⁵ The Committee’s 2008 Pre-Primary Report, in fact, confirms that the Committee paid \$3,591.05 to Stanford Financial Group for food and beverage, \$817.78 to the Buccaneer Hotel for lodging, and \$4,161.90 to American Airlines for travel. *Id.*

⁶ The Committee’s assertion is consistent with its 2008 Pre-Primary Report, which shows contributions from 30 individuals during this time period, including \$11,100 in contributions from nine individuals listing Stanford Financial Group as their employer.

1 market value of the fundraising event. An *unnamed* organizer of the event reportedly told a
2 newspaper reporter that the event cost \$25,000 and described the expensive food and champagne
3 served at the fundraiser. *See* n. 4, *supra*. But such a newspaper article by itself — citing an
4 unidentified source's statement that itself lacks any indicia of reliability — is not adequate
5 support for a finding of reason to believe that the Act has been violated. And the record contains
6 no other suggestion that the costs of the event exceeded the roughly \$3,600 amount that the
7 Committee reimbursed the Stanford Financial Group for the costs of the fundraiser.

8 The "weakness of the evidence" warrants dismissal. Statement of Policy Regarding
9 Commission Action in Matters at the Initial Stage of the Enforcement Process, 72 Fed. Reg.
10 12,545, 12,546 (Mar. 16, 2007). We therefore recommend that the Commission dismiss the
11 allegation that Stanford Financial Group, R. Allen Stanford, and the Committee violated
12 2 U.S.C. § 441b(a) by making or receiving, respectively, a prohibited corporate contribution by
13 not paying fair market value for catering costs associated with the St. Croix fundraiser.

14 But the Committee nonetheless received a prohibited corporate contribution when it
15 failed to make an *advance* payment to the Stanford Financial Group for the food and beverages.
16 The Committee reported disbursing \$3,591.05 to the Stanford Financial Group on July 23, 2008,
17 five days *after* the July 18, 2008, fundraiser. *See* Schedule A, Friends for Gregory Meeks 2008
18 12-Day Pre-Primary Report, filed Aug. 28, 2008. Thus, the Committee violated the requirement
19 that corporations receive "*advance* payment for the fair market value" of catering and other food
20 services provided by a corporation. 11 C.F.R. § 114.2(f)(2)(i)(E). *See* 2 U.S.C. § 441b(a). *See*
21 *also* MUR 5020 (Gormley for Senate) (finding violation of corporate contribution ban where
22 committee failed to make advance payment to corporation for catering); MUR 6034 (Worth &
23 Co., Inc.) (same); MUR 6127 (VIDA Fitness) (same).

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1 We do not recommend, however, that the Commission investigate this matter or seek pre-
2 probable cause conciliation. Rather, we recommend that the Commission dismiss and send a
3 caution letter to all Respondents involved with the St. Croix fundraiser.

4 First, the payment, though not made in advance, was only five days late. Moreover,
5 where the Commission has authorized conciliation regarding corporate facilitation stemming
6 from a failure to make an advance payment for catering, it has done so in the context of other,
7 more widespread violations of 2 U.S.C. § 441b(a). See MUR 5020 (Gormley for Senate)
8 (finding violations of 441b(a) from failure to pay fair market price for catering and corporate
9 facilitation by collecting and forwarding contributions to candidate); MUR 6034 (Worth & Co.)
10 (finding violations of 441b(a) from failure for advance payment of catering and use of corporate
11 resources to organize fundraiser); MUR 6127 (Vida Fitness) (finding violation of 441b(a) from
12 failure to make advance payment for beverages and also for use of corporate e-mail list value).
13 Finally, considering all of the circumstances, we believe that dismissing with caution would be
14 the most prudent use of Commission resources.

15 We therefore recommend that the Commission dismiss with caution the allegations that
16 Stanford Financial Group, Stanford, and the Committee violated 2 U.S.C. § 441b(a) and
17 11 C.F.R. § 114.2(f)(2)(i)(E) by not making advance payment for catering costs associated with
18 the St. Croix fundraiser.

19 **B. There is No Reason to Believe that the Las Vegas Fundraiser Resulted in a**
20 **Personal Use Violation**
21

22 The Complaint alleges that the leadership PAC made expenditures to personally benefit
23 Meeks, including disbursements of \$8,063.28 to the ARIA Resort in Nevada for catering, site
24 rental, and lodging in December 2010; \$1,043.49 to American Airlines for travel in December
25 2010; and \$15,119.92 to ARIA Resort for catering, site rental, and lodging in January 2011.

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1 Compl. at 4, 8. The Complaint further alleges that, because Meeks has a history of gambling, the
2 Nevada fundraiser amounted to a personal vacation; that the event did not result in additional
3 contributions to the leadership PAC; and that most business PACs holding fundraisers after
4 congressional elections do so in Washington, DC, not a place that involves travel time and
5 expense.⁷ Compl. at 4-5, 8. According to the Complaint, these factors establish that there was
6 not a true fundraising event, and that the expenses for this trip would therefore have existed
7 "irrespective of the candidate's campaign or duties as a Federal officer," and constituted
8 violations of the personal use provisions of the Act by the leadership PAC and Meeks. *Id.* at 3-5.

9 The Response states that the \$8,063.23 that the leadership PAC paid to the Las Vegas
10 casino was in connection with its November 12-14, 2010, Sixth Annual Las Vegas fundraising
11 event.⁸ Resp. at 4. For that event, Respondents claim, the leadership PAC sent out invitations
12 during the summer of 2010, suggesting contribution levels of \$2,500 and \$5,000, and received
13 "an array" of contributions. *Id.* In all, during this time period, and while holding no other
14 events, the leadership PAC raised \$56,000 in contributions, the bulk of which were generated by
15 the Las Vegas fundraiser, and reported on its disclosure reports. *Id.*

16 The Act and implementing regulations prohibit any person from converting to "personal
17 use" contributions and other donations received by a candidate or individual Federal
18 officeholder. 2 U.S.C. § 439a(b); 11 C.F.R. § 113.1(g); Personal Use of Campaign Funds,
19 60 Fed. Reg. 7,862, 7,863 (Feb. 9, 1995)(explanation and justification). For purposes of

⁷ Citing a news article reporting that Meeks has a history of gambling and failed to initially report his winnings in his 2008 Financial Disclosure Report required by the Ethics in Government Act, the Complaint speculates that Meeks used the leadership PAC's funds to subsidize his gambling vacations. *Id.* at 5, 8, and n.11 (citing Benjamin Lesser, *Rep. Gregory Meeks Reveals \$3.5G Jackpot From Vegas Blackjack Tables*, "NEW YORK DAILY NEWS, Dec. 3, 2010).

⁸ The leadership PAC also disclosed a \$533.12 disbursement on November 15, 2010, to ARIA Resort for "Fundraising Event Lodging for PAC." See 30 Day Post General Report, filed December 2, 2010, and amended January 30, 2012.

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1 2 U.S.C. § 439a, a contribution or donation accepted by, or in support, of a candidate includes
2 those funds received by the candidate's authorized committee. *See* 2 U.S.C. § 439a. But the
3 provision does not extend to other committees, such as a leadership PAC. *See* Advisory Op.
4 2008-17 (KITPAC) (permitting a candidate's leadership PAC to pay for expenses that would
5 have been prohibited by 2 U.S.C. § 439a(b) as personal use expenses if paid for by authorized
6 committee).

7 Here, the expenses at issue, which appear to be connected with a *bona fide* campaign
8 event, were paid for by Meeks's leadership PAC, not his authorized committee. *See* Build
9 America PAC, FEC Form 1 (Oct. 3, 2011). Therefore, the prohibitions of 2 U.S.C. § 439a(b) do
10 not apply, and we recommend that the Commission find no reason to believe that Meeks and the
11 leadership PAC violated 2 U.S.C. § 439a(b).

12 **C. The Leadership PAC's Misreporting of Voided Checks Should be Dismissed**
13 **with a Caution Letter**
14

15 The Complaint and Amended Complaint allege that, on January 3, 2011, the leadership
16 PAC attempted to deceptively increase its cash-on-hand balance by "voiding" two checks as
17 stale – one for \$5,000⁹ to the Democratic Congressional Campaign Committee and the other for
18 \$2,000 disbursed on August 1, 2008, to The Jefferson Committee – when in fact, the checks had
19 been previously deposited and accounted for by the recipients years earlier. Compl. at 5-6, 9;
20 Amended Compl. at 2-3. The Complaint speculates that the leadership PAC "perhaps...took in
21 illegal or improper contributions" and tried to hide this amount by increasing its cash-on-hand
22 balance by \$7,000 through "voiding" checks. Amended Compl. at 3-4. As support for this

⁹ The leadership PAC's disclosure reports show that it disbursed three checks for \$5,000 each to the Democratic Congressional Campaign Committee on October 5, 2002, April 1, 2003, and March 30, 2004. *See* 2002 Pre-General, filed December 20, 2002; 2003 Mid-Year, filed July 15, 2003; 2004 April Quarterly, filed May 25, 2004. The PAC's original 2011 30 Day Post-Special Election report does not identify which one of these \$5,000 checks was being "stale-dated."

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1 allegation, the Complainant cites to the leadership PAC's original 2011 30 Day Post-Special
2 Election Report, which disclosed itemized disbursements of "\$5,000" to the Democratic
3 Congressional Campaign Committee and "\$2,000" to The Jefferson Committee both on January
4 3, 2011, with the purpose for each listed as: "Void: Stale dated check." *See* Schedule B Build
5 America PAC, 30 Day Post-Special Election Report, at 26-27 (June 23, 2011). The Complaint
6 then assumes that the Committee's final cash-on-hand amount correspondingly increased by
7 \$7,000. Compl. at 4.

8 The Response acknowledges that the outside vendor responsible for preparing the
9 leadership PAC's reports inadvertently identified as stale and "voided" the checks in question
10 while reconciling the leadership PAC's bank balance with its FEC-reported balance following a
11 May 24, 2011, special election in New York. Resp. at 4-5. The vendor prepared the leadership
12 PAC's 2011 Post-Special Election Report and failed to verify that the checks had not cleared, *Id.*
13 As a result of the error, it appears that the leadership PAC misstated its cash-on-hand balance in
14 its original 2011 Post-Special Election Report filed June 23, 2011.

15 After the Complaint, the leadership PAC confirmed that the checks in question had been
16 cashed by the recipient committees and should not have been voided. *Id.* According to the
17 Response, the leadership PAC is taking steps to change its reconciliation and reporting processes
18 going forward. *Id.*

19 Following the filing of the Complaint and its Response, the leadership PAC filed an
20 Amended 2011 Post-Special Election Report on January 31, 2012, which corrected the misstated
21 cash-on-hand balance caused by the "voided" checks, and deleted the negative disbursements for

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1 the checks from Schedule B. *See* Build America PAC, Amended 30 Day Post-Special Election
2 Report, filed Jan. 31, 2012.¹⁰

3 The Act requires political committees other than authorized committees to file a post-
4 general report no later than the 30th day after the general election. *See* 2 U.S.C.
5 § 434(a)(4)(A)(iii). Each report filed under section 434(a) must disclose the amount of cash-on-
6 hand at the beginning and end of the reporting period. *See* 2 U.S.C. § 434(b)(1).

7 The leadership PAC acknowledges that its outside vendor erroneously designated cashed
8 checks as stale, "voided" them, and reported negative disbursements in its original 2011 Post-
9 Special Election Report. Resp. at 5. But given the relatively low amount involved, the apparent
10 inadvertent nature of the misstatement, the fact that the leadership PAC rectified the affected
11 report, and the leadership PAC's review of internal procedures to prevent future errors, Resp.
12 at 5, we recommend that the Commission exercise its prosecutorial discretion and dismiss with
13 caution the allegation that the leadership PAC violated 2 U.S.C. § 434(b)(1). *See Heckler v.*
14 *Chaney*, 470 U.S. 821 (1985).

15 III. RECOMMENDATIONS

- 16 1. Dismiss the allegation that Stanford Financial Group, R. Allen Stanford, and
17 Friends for Gregory Meeks and Patsy A. Simmons in her official capacity as
18 treasurer, violated 2 U.S.C. § 441b(a).
19
- 20 2. Dismiss the allegation that Friends for Gregory Meeks and Patsy A. Simmons in
21 her official capacity as treasurer, R. Allen Stanford, and Stanford Financial Group
22 violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(f)(2)(i)(E) by not making

¹⁰ The Amended 30 Day Post-Special Report disclosed an increase in its beginning cash-on-hand balance by approximately \$14,000 and an increase in its final cash-on-hand by \$1,385. The amendment also showed an increase in disbursements by \$14,083, which was caused primarily by the Committee deleting three previously "voided" checks from Schedule B. These included the two cited in the Complaint, "\$5,000" to the Democratic Congressional Campaign Committee and "\$2,000" to The Jefferson Committee, as well as "\$5,000" to the Congressional Black Caucus Foundation. The \$1,345 increase in the final cash-on-hand balance in the amendment was caused by a new \$1,500.00 receipt from Patsy Simmons on Line 11(a)(i) and two small decreases on Lines 15 and 17 in unitemized transactions. The remainder of the disbursements increase appears attributable to an additional transaction not disclosed on the original report: a "Consulting: Fundraising services for PAC" to Benjamin Branch for \$2,083.33.

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advance payment for catering costs associated with the St. Croix fundraiser, and
send cautionary letters.

3. Find no reason to believe that Gregory W. Meeks, and Build America PAC and
Patsy A. Simmons in her official capacity as treasurer, violated 2 U.S.C. § 439a(b).

4. Dismiss the allegation that Build America PAC and Patsy A. Simmons in her
official capacity as treasurer, violated 2 U.S.C. § 434(b)(1), and send a cautionary
letter.

5. Approve the attached Factual and Legal Analyses.

6. Approve the appropriate letters.

7. Close the file.

Anthony Herman
General Counsel

2/15/13
Date

BY:

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